

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ELIZABETH A. SULLIVAN, CAROL M. DUBOIS and  
JILL M. CASSAS,

Case Number.: 07 CV 11416

*Plaintiffs,*

*-against-*

**ANSWER TO VERIFIED COMPLAINT  
AND AFFIRMATIVE DEFENSES**

TOWN OF DEERPARK, MARK A. HOUSE,  
Town Supervisor, sued in his individual capacity,  
And WILLIAM R. WERNER, Police Chief, sued  
in his individual capacity.

*Defendants.*  
-----X

The defendant, MARK A. HOUSE, by and through their attorneys, LAW OFFICES OF DONALD L. FRUM, hereby answer the complaint as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered "2," "3," "4," "9," "11," "12," "13," "14," "15," "16," "17," "18," "19," "20," "21," "22," "23," "24," "25," "26," "27," "28," "29," "30," "31," "32," "33," "34," "35," "36," "37," "38," "39," "40," "41," "42," "43," "44," "45," "46," and "47," of the verified complaint.

2. Denies the allegations contained in paragraphs numbered "48," and "49," of the verified complaint.

**AS AND FOR A FIRST CAUSE OF ACTION**

3. The defendant, answering paragraph numbered "50" of the verified complaint repeats and reiterates the answer to each and every allegation contained in paragraphs "1," through "49," inclusive of this Answer with the same force and effect as if herein set forth in full.

4. Denies the allegations contained in paragraphs numbered "51," and "52," of the verified complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

5. The accident or occurrence complained of was caused in whole or in part by the culpable conduct attributed to the Plaintiffs including contributory negligence and/or assumption of the risk and that by reason thereof the amount of damages recoverable, if any, shall be diminished in whole or in part by that portion of which the culpable conduct attributed to the Plaintiff bears to the alleged conduct of the defendant which allegedly caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

6. The limited liability provisions of Article 16 of the CPLR are applicable.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

7. The Court lacks personal jurisdiction over the defendant, MARK A. HOUSE, for failure of Plaintiff to comply with the requirements of the General Municipal Law of the State of New York and other similar local municipal provisions of law.

**CROSS CLAIM**

1. As and for a Cross-Claim against the Co-Defendant, WILLIAM R. WERNER, POLICE CHIEF, the answering defendant, MARK A. HOUSE, respectfully alleges as follows:

2. That if the plaintiff was caused to sustain damages at the time and place set for in the plaintiffs' complaint through any carelessness, and recklessness, and/or negligence other than the plaintiffs' own negligence, carelessness and recklessness, said damages were sustained by reason of the primary carelessness, recklessness and negligence and/or affirmative acts of mission and commission, by the Co-Defendant, WILLIAM R. WERNER, POLICE CHIEF, individually or their agents, servants and/or employees, with the negligence, if any, on the part of the answering defendant, MARK A. HOUSE, being secondary and/or derivative only.

3. That by reason of the foregoing, the AFORENAMED Co-Defendant, WILLIAM R. WERNER, POLICE CHIEF, will be liable to the answering defendant in the event and in the amount of recovery herein by the plaintiffs or in such amount as the Court or Jury may direct.

**WHEREFORE**, the defendant, MARK A. HOUSE, demands judgment dismissing the complaint of the plaintiffs herein, and judgment on the cross-claim, together with costs and disbursement of this action and for such other and further relief as to this Court may seem just and proper.

Dated: Elmsford, NY  
February 13, 2008

Yours, etc.

LAW OFFICES OF DONALD L. FRUM

By: 

H. Malcolm Stewart, Esq.

*Attorneys for Defendant*

MARK A. HOUSE

565 Taxter Road - Suite 150

Elmsford, NY 10523

914-347-5522

**To:**

HELEN G. ULLRICH (HU 6597)

BERGSTEIN & ULLRICH, LLP

Attorney for Plaintiffs

15 Railroad Avenue

Chester, New York 10918

(845) 469-1277

**ATTORNEY'S VERIFICATION**


H. Malcolm Stewart, Esq., an attorney duly admitted to practice in the courts of New York State, hereby affirms under penalty of perjury and pursuant to CPLR § 2106 as follows:

Affirmant is associated with the H. Malcolm Stewart, Esq., the attorneys of record for the defendant, MARK A. HOUSE, in the within action and as such is fully familiar with the facts and circumstances heretofore had herein by virtue of the file maintained by this office.

Affirmant has read the foregoing and the same is true to affirmant's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters affirmant believes them to be true.

This verification is made by an attorney because the defendant, MARK A. HOUSE, is not in the same County where your affirmant's office is located.

Dated: Elmsford, NY



H. Malcolm Stewart, Esq.